

EXHIBIT B (PART 2)

1 A. Yes, they are supervisors.

2 Q. But foremen and general foremen at the
3 Mystic site did not get performance evaluations?

4 A. No, they did not.

5 Q. That were written?

6 A. That's correct.

7 Q. To your knowledge, was their performance at
8 all discussed with them?

9 A. To my knowledge, no.

10 Q. Who are the vice presidents of the company.
11 I know you mentioned Mr. Cakrane. Are there any
12 other vice presidents of the company?

13 A. Yes. I would have to get the company
14 directory.

15 Q. Are there lots? How many are we talking?

16 A. Quite a few, dozens.

17 Q. How are employees put on notice, if at all,
18 as to the identity of the vice presidents of the
19 company?

20 A. Rephrase the question, please.

21 Q. Are employees given any notice to your
22 knowledge as to who the vice presidents of the
23 company are?

24 A. Well. If they work in a certain

1 department, they will know that anyway. That's
2 going to be common knowledge.

3 Q. Like what kind of departments?

4 A. Estimating, engineering, safety, human
5 resources.

6 Q. What about the craft workers, are they told
7 in any way who the vice presidents of the company
8 are?

9 A. No.

10 Q. Do they have access to a company directory
11 to find that out in any way?

12 A. I wouldn't have any idea.

13 Q. Why don't you go ahead and put those three
14 policies aside. I may question you later on those.

15 (Document marked as Anderson

16 Exhibit 8 for identification)

17 Q. Take a look at what's been marked Exhibit
18 No. 8. Let me know when you are through looking at
19 it.

20 A. (Examines document) Okay.

21 Q. Have you seen this document before?

22 A. Ones very much like it, if not this one
23 specifically.

24 Q. Do you recall this letter being issued to

1 employees at the Mystic site on March 1, 2002?

2 A. I don't recall that, no.

3 Q. With respect to the three policies that I
4 previously had in front of you, Exhibits 5, 6 and 7,
5 was there any reason other than, as you described,
6 your feeling that the training on orientation on EEO
7 matters was deficient, was there any other reason
8 why these policies were put out?

9 A. Well, we had two issues come up on graffiti
10 and discrimination issues, possible alleged
11 discrimination issues.

12 *Q. Did you intend to with those policies put
13 out to employees an understanding as to what the
14 policy and procedure would be for dealing with
15 discrimination on-site?

16 A. I prepared a toolbox training also, and I
17 did a check stuffer at some point, which I don't
18 remember the date exactly, which would be an
19 attachment to their check that spoke to these
20 issues, to all the craft.

21 MS. PALACIOS: Could you read back the last
22 question.

23 *(Question read)

24 Q. Was that a yes or no answer?

1 A. Yes, yes, yes.

2 Q. You mentioned there was a situation with
3 graffiti that you intended to address with these
4 policies. Take a look at them yourself. I didn't
5 see a mention about graffiti specifically in these
6 policies, but I wondered if there was a reason for
7 that or not. That's my question.

8 A. No, no reason that I can think of or
9 specifically tell you.

10 Can we step back for a moment.

11 Q. Sure.

12 A. Exhibit 6 here speaks to sexual harassment
13 specifically, inappropriate pictures, written
14 material, just to point that out.

15 Q. Well, because you had some role in drafting
16 these, I'm trying to get your understanding, so
17 that's helpful. Did you intend for that to cover
18 graffiti when you talk about written material?

19 A. No, I did not.

20 (Documents marked as Anderson
21 Exhibits 9-10 for identification)

22 Q. Take a look at what I had marked as
23 Exhibits 9 and 10. Is this the toolbox meeting that
24 you put together that you described previously?

1 A. (Examines documents) Yes.

2 Q. Is the exhibit marked as Exhibit 9 the
3 check stuffer that you talked about?

4 A. Yes.

5 Q. Again, you mentioned graffiti being part of
6 the reason why you put together these policies. Was
7 there a reason why you didn't include graffiti in
8 the check stuffer description?

9 A. I don't recall, no.

10 Q. I noticed in Exhibit 10, you do mention
11 graffiti in Paragraph 2 and talk about graffiti and
12 threats being subject to a zero tolerance in the
13 company?

14 A. Yes.

15 Q. Could you describe to me what your
16 understanding that you intended to convey would be a
17 zero tolerance policy on these issues.

18 A. If you use any threats or if you are caught
19 doing any graffiti that's of a harassing or
20 intimidating nature, you are going to be terminated
21 by the company.

22 Q. Was there any training that you conducted
23 for anybody at Mystic when you rolled out these
24 policies and procedures?

1 A. Formal training you are asking?

2 Q. Yes.

3 A. No.

4 Q. Or any informal training?

5 A. It was brought up at staff meetings on a
6 pretty regular basis by myself.

7 Q. When you say "brought up," what do you mean
8 by that specifically?

9 A. We had a staff meeting every morning of all
10 the superintendents. It was a topic that I touched
11 upon fairly frequently, discrimination and graffiti.

12 Q. Did you ever have occasion to meet with the
13 craft foremen or general foremen on these policies?

14 A. No.

15 Q. Do you know if anyone else did?

16 A. Not to my knowledge.

17 Q. Did you give anybody else authority to
18 train anybody else on the site on these policies?

19 A. Would you rephrase that.

20 Q. Sure. Did you ask anybody else other than
21 yourself to give training or mention these policies
22 on the work site?

23 A. No. This Exhibit 10 was distributed by the
24 safety department to each crew and was to be

1 reviewed at their toolbox safety meeting, which, as
2 I recall, was Monday mornings.

3 Q. Tell me a little bit about the toolbox
4 meetings. Did you sit in on any of them at Mystic?

5 A. I did not.

6 Q. Have you ever sat in on them while you were
7 working for WGI?

8 A. On other sites I have in the past.

9 Q. How long do they usually take?

10 A. 10 to 15 minutes usually.

11 Q. In your experience, are folks focused and
12 interested in what is being said usually?

13 MR. PATERNITI: Objection. Go ahead.

14 A. Generally, yes.

15 Q. At Mystic, do you know who conducted the
16 toolbox trainings?

17 A. The foremen and the stewards in some
18 occasions in some crafts.

19 Q. And the stewards you said?

20 A. On some occasions, the stewards were there,
21 too.

22 Q. Was the safety department ever involved in
23 doing the toolbox trainings, other than this one
24 time you described?

1 A. The safety department did special training,
2 but they didn't do these.

3 Q. The training as reflected in Exhibit 10 in
4 front of you where you have the toolbox meeting
5 discussion and you have the date, and I guess in
6 that one it says Mr. Paul Aiello was the supervisor,
7 I assume those are signatures of people that
8 attended. Is that true?

9 A. They would be on the crew he would be
10 supervising, yes.

11 Q. Do you know Mr. Paul Aiello?

12 A. No, I do not.

13 Q. Do you know whether or not he's a foreman?

14 A. No, I don't know.

15 Q. Do you know whether or not he's someone who
16 is in the safety department?

17 A. Not that I am aware of.

18 Q. I guess what I'm trying to find out is you
19 mentioned the safety department did this, true?

20 A. No.

21 Q. That's not true?

22 A. No. The safety department would prepare a
23 toolbox training each week. They would send that
24 out to all the superintendents, who would distribute

1 that down through all the foremen and down to all
2 the crews who would then conduct their own training.

3 We had lots of crews. This was a way to
4 get some training to everybody at one time.

5 Q. What specifically happened with respect to
6 this training?

7 A. As they would do with any toolbox training
8 that was prepared, as I said, normally by the safety
9 department, the foreman would read what was done was
10 written. They would have a discussion that would be
11 appropriate. Everyone would sign it. Then these
12 forms would come back to the safety department.

13 Q. What happened with this particular
14 training? You told me with safety toolbox
15 trainings, that the safety department, especially
16 the superintendent, would then go to the foremen. I
17 know you put this together. What did you do after
18 you put it together to make sure it got to the
19 crews?

20 A. I gave a copy of it to the safety
21 department to do their normal distribution as they
22 would normally do with their regular toolbox safety
23 meeting.

24 Q. Did you have any discussions about how you

1 wanted this training to be conducted with the safety
2 department?

3 A. With the safety department?

4 Q. Yes.

5 A. No.

6 Q. With anybody else?

7 A. No.

8 Q. Did you get any questions from any of the
9 craft workers about this toolbox training or any of
10 the policies that we've been discussing?

11 A. I did not.

12 Q. No questions from the foremen or general
13 foremen?

14 A. Not that I recall.

15 (Document marked as Anderson
16 Exhibit 11 for identification)

17 Q. Here's Exhibit 11, Mr. Anderson. This is a
18 document that was given to us during the deposition
19 of John Baldwin, who, as you may or may not know,
20 worked on a separate WGI site that was not Mystic.

21 Have you seen this policy before?

22 A. (Examines document) No.

23 Q. Do you have any idea of where this policy
24 came from?

1 A. It would appear to be generated by my
2 company at a particular site, because it identified
3 P4, which is a site in Wisconsin.

4 Q. Did you have any dealings with this site at
5 all in the performance of your duties?

6 A. As to labor relations?

7 Q. Yes.

8 A. Yes.

9 Q. You never actually worked with that policy,
10 though? You were not aware of that policy at all at
11 that Wisconsin site?

12 A. No.

13 Q. Do you know who had duties for EEO matters
14 at that site?

15 A. I do not.

16 Q. Are you familiar with all of the policies
17 relating to work issues that the company puts out
18 for employees? Well, let me put it this way. Is
19 there any sort of central database or manual for
20 policies that had been given out to employees over
21 time at different sites?

22 A. I wouldn't know the answer to that.

23 Q. That's fine if you don't know.

24 My next questions have to do with at

1 Mystic, did you have any responsibility at all to
2 look at the EEO policies of the subcontractors
3 on-site to determine whether or not they were
4 acceptable or appropriate?

5 A. Do you mean were there written policies,
6 for instance?

7 Q. Yes.

8 A. No.

9 Q. Has there ever been a requirement to your
10 knowledge of a subcontract, with some of these
11 subcontractors?

12 MR. PATERNITI: Objection.

13 A. At that particular project?

14 Q. In general, have you ever heard that where
15 WGI would say as part of their agreement with a
16 subcontractor, "We want to look at your policies
17 before we agree"?

18 A. I have seen that on government projects.

19 Q. Incidentally, was Mystic a federally funded
20 site?

21 A. No.

22 Q. How about Weymouth?

23 A. No.

24 Q. When the toolbox training was done, were

1 subcontractor employees involved in those toolbox
2 trainings to your knowledge?

3 A. Not to my knowledge.

4 Q. Do subcontractor employees sit in on
5 toolbox trainings that are performed by WGI?

6 A. I don't remember a requirement for that.

7 Q. I spent part of the afternoon yesterday
8 looking at the "With All Due Respect" video. Have
9 you seen that before? It was produced to me by WGI
10 in this case.

11 Have you ever seen that video, the training
12 video on EEO and I guess affirmative action?

13 A. I may have.

14 Q. You don't have a specific recollection
15 offhand?

16 A. No.

17 MS. PALACIOS: Off the record.

18 (Discussion off the record)

19 Q. Do you know of any regular meetings that
20 were held with foremen and general foremen on the
21 Mystic site either with you or with superintendents?

22 A. With myself, I don't recall any meeting
23 specifically with foremen. The superintendents, I
24 wouldn't have any personal knowledge of that.

1 Q. Do you know whether the safety department
2 ever held any meetings with just supervisors, like
3 for foremen and the general foremen of the craft
4 workers?

5 A. I don't know the answer to that.

6 MS. PALACIOS: Why don't we take a few
7 minutes.

8 (Recess at 2:30 p.m.)

9 BY MS. PALACIOS: (2:45 p.m.)

10 Q. With respect to Exhibits 5, 6 and 7, which
11 were the three policies that we talked about earlier
12 prior to the break, I just wanted to confirm, did
13 you instruct anybody to provide training on these
14 policies to any of the foremen at the Mystic site?

15 A. I did not.

16 I have to change an answer I gave you
17 earlier before the break, though.

18 Q. Okay.

19 A. I believe you asked me if the safety
20 department had regular meetings with the foremen.
21 Was that the proper form of your question?

22 Q. I don't remember.

23 A. My answer was no, and that was based on the
24 fact, my answer being no, that I never attended any,

1 but they had regular meetings with the foremen. I
2 was just never physically there for those.

3 Q. But you know that those occurred, meetings
4 with foremen?

5 A. Yes.

6 Q. Do you know whether or not anyone else
7 directed the foremen at the Mystic site to be
8 trained on the policies on Exhibits 5, 6 and 7?

9 A. Not to my knowledge, no.

10 Q. Given that you were responsible for
11 drafting those policies, can you tell me who your
12 audience was. Who were those directed to?

13 A. The craft workers on the site.

14 MS. PALACIOS: Why don't we mark the
15 diagram as Anderson Exhibit 12.

16 (Document marked as Anderson
17 Exhibit 12 for identification)

18 Q. I'm just going to show you your drawing,
19 which is now marked as Exhibit 12. You said you had
20 those policies posted?

21 A. Yes.

22 Q. Where were they posted?

23 A. Right about in this area here next to the
24 clock alleys (indicating).

1 Q. Maybe you could take this opportunity to
2 define that area where the "P" is on your drawing a
3 little bit more. If you could put there I guess
4 circles to indicate where the punch clocks were, if
5 there were any.

6 A. Would you like to make a new drawing or
7 keep it on this?

8 Q. We can keep it on one, unless you wanted to
9 do like a highlight.

10 A. Well, this is a little tiny one now. It
11 will look like a bunch of...

12 Q. Let's mark this as Exhibit 13, and we can
13 indicate the powerplant site. Is that what you
14 wanted to do?

15 A. It will be just a close-up of the front
16 gate.

17 (Document marked as Anderson
18 Exhibit 13 for identification)

19 Q. Before you do that, can you define for me,
20 when you say craft workers -- and we've been
21 operating on craft workers as a monolith -- who does
22 that group include?

23 A. The craft workers are going to include the
24 craft members of each construction union with which

1 we dealt, who they were members of the union, but
2 they would become our employees for a period of
3 time.

4 Q. That would include supervisors?

5 A. It would include the general foremen,
6 foremen, journey persons and apprentices.

7 Q. Now you are going to draw on Exhibit 13,
8 which is going to be a close-up of the front gate.
9 As you do that, if could you put in the clock alley.

10 A. Sure. (Witness complies)

11 Q. Were there any trailers in the front there?

12 MR. PATERNITI: By the front gate you mean?

13 MS. PALACIOS: Yes.

14 A. There was a pipefitter trailer off here,
15 but in this particular drawing, it will be too much
16 of a close-up. There were trailers all around the
17 perimeter for a variety of reasons (indicating).

18 MR. BENNETT: For the record, you are
19 pointing to the perimeter of the powerplant site.

20 THE WITNESS: Yes, the powerplant site
21 itself.

22 Q. I'm writing on your drawing, Exhibit 12,
23 "Trailers around perimeter," but you can go ahead
24 and keep drawing on Exhibit 13.

1 A. (Witness complies)

2 Q. Okay, we're looking at Exhibit 13.

3 A. This was the regular gate for the ingress
4 and egress of vehicles.

5 Q. Let me come around and stand next to you so
6 I can see.

7 A. Which had a mechanical arm. I won't put
8 that in. There was a smaller gate here that was for
9 personnel egress and ingress.

10 I recall we had three clock alleys. As
11 craft workers, and myself -- I had a badge -- would
12 come in the site, there was a card swipe on these
13 clock alleys. They look like small shacks. As you
14 entered, you would swipe your card.

15 The bulletin board with the postings was
16 right here. This was the blank side. If you were
17 coming in, unless you turned, you wouldn't see it.
18 You would see the bulletin board, but you would have
19 to turn your head. Going out in the evening, for
20 instance, then you are facing that before you go to
21 the clock alley (indicating).

22 Q. What was the bulletin board actually on?
23 Was it on a partition?

24 A. It was on, as I recall, legs. It was

1 fairly large. I'm going to say it was six by eight.
2 It had sliding plastic doors. A lock was kept on
3 them so people wouldn't tear stuff out of there.

4 Q. Was this outside the clock alley, again,
5 the bulletin board, or was it in a trailer?

6 A. This was all outside.

7 MR. BENNETT: Just for the record, can you
8 have him label where the bulletin board was with the
9 posting.

10 MS. PALACIOS: He did.

11 THE WITNESS: I did, right here. It's just
12 kind of tiny (indicating).

13 MR. DESSIN: You do mean six by eight feet,
14 right, not inches?

15 THE WITNESS: Yes. It was fairly large.
16 That's the best dimensions I can recall.

17 Q. Without making any marks yet, if you could
18 just indicate to me where the permanent bathrooms
19 were on the site at Mystic.

20 A. Here and here (indicating).

21 Q. Could you draw two "B's" where the
22 permanent bathrooms were.

23 A. Two "B's"?

24 Q. Yes, a "B" for each bathroom.

1 Q. And what about Joe?

2 A. I don't recall. I don't recall them being
3 specific about it to me.

4 Q. I know you said you recall that Godwin's
5 complaint came in around September of 2002. Do you
6 have a recollection as to when Joe's complaint came
7 in, whether it was before or after or within months,
8 or otherwise?

9 A. Again, I would have to look at my journals.
10 I'm thinking it was in August sometime possibly,
11 maybe the first half of August.

12 Q. After you got those two complaints in the
13 summer or fall of 2002, did you on your own decide
14 to go and walk the site to see if that graffiti was
15 present?

16 A. No, I did not.

17 Q. Did you instruct anyone other than the
18 superintendent and the steward in Godwin's situation
19 to do so?

20 A. No.

21 Q. Did you communicate at all with
22 Mr. McDaniel about the graffiti reports?

23 A. Yes.

24 Q. How many times, just on that issue?

1 A. I don't recall it. Specifically with that
2 issue, it would have been in conjunction with the
3 issue with Joe and Godwin as part of the issue. I
4 would have had discussions with -- we established a
5 cleanup crew later on. I talked with him about it
6 on that.

7 Q. Whose idea was it to set up a cleanup crew?

8 A. It was a recommendation that I made, not
9 specifically, but "We need to do something." I told
10 that to Bill Rittershaus. Then he decided that we
11 should have a cleanup crew.

12 Q. Would you consider setting up a cleanup
13 crew to be a response to the graffiti?

14 A. Certainly.

15 Q. Any other steps or conduct that WGI, in
16 your mind, at the Mystic site undertook to address
17 graffiti that was complained of?

18 A. We've discussed everything that I can
19 recall right now.

20 Q. Can you tell me a little bit about -- I
21 understand you spoke to Rittershaus, and you
22 recommended doing a cleanup crew, and it sounds like
23 he went ahead with the idea. Did you at any point
24 personally meet with any individual who was selected

1 to be part of the cleanup crew to discuss what was
2 happening and what the goals were of their work?

3 A. I talked to Bob Blount at one point, who
4 ran the crew. I didn't talk to the members of the
5 crew, no.

6 Q. Remind me again. Bob Blount was
7 superintendent of laborers?

8 A. Yes. He was a civil superintendent. As I
9 recall, he reported to -- I can't remember the name
10 now.

11 Q. But you didn't actually directly speak to
12 any members of the cleaning crew?

13 A. I did not.

14 Q. Did you give Mr. Blount any specific
15 directions on what he should say to the cleanup
16 crew?

17 A. No.

18 Q. My understanding was that the cleanup crew
19 was made up of laborers.

20 A. That's correct.

21 Q. Was there a decision on who would be
22 selected for the cleanup crew that was made up of
23 laborers?

24 A. I wouldn't know the answer to that.

1 Q. Do you know whether or not the cleanup crew
2 made any reports of what they found as they cleaned
3 up the graffiti?

4 A. I don't know that.

5 *Q. Do you know whether or not they found any
6 additional graffiti?

7 A. No, not personally.

8 *Q. When you say "not personally," did you
9 learn of it any other way?

10 A. Why don't you reask the question again.

11 MS. PALACIOS: Could you read it back.

12 *(Questions read)

13 A. If I judge by when I took my tour with the
14 EEOC investigator, I would make an assumption that
15 they found. I'm not supposed to assume, however,
16 so...

17 Q. Right, don't assume. That's fine. Did any
18 of the members of the cleaning crew or Mr. Blount or
19 anybody else, for that matter, ever talk to you
20 about whether they found any additional graffiti?

21 A. I don't remember having a specific
22 conversation in that regard, no.

23 Q. Do you know what the instructions were to
24 the cleanup crew as to what they were supposed to do

1 with the graffiti if they found it?

2 A. No. I only know my discussions with Bob
3 Blount. I don't know what he specifically said to
4 his crews.

5 Q. Did you tell Bob Blount what you wanted to
6 be done with the graffiti?

7 A. That we needed to get rid of the graffiti.

8 Q. Anything more specific than "get rid of
9 it"?

10 A. No, "get rid of it."

11 Q. Do you have in your mind an idea of what
12 "get rid of it" meant?

13 A. Sandpaper, paint.

14 Q. I know that you participated in the EEOC
15 on-site, as you just told me. I know you were
16 interviewed by the EEOC investigator, do you recall
17 that?

18 A. Yes.

19 Q. Could you tell me a little bit about what
20 your involvement was on the on-site, you know,
21 particularly with respect to your going around the
22 site with the EEOC and finding the graffiti.

23 A. Well, I was the contact person for any EEO
24 issues, so it was just natural.

1 Q. On that day, did the EEOC investigator meet
2 with you at the beginning of the day and you
3 remained with her throughout the day? How did it
4 work?

5 A. I seem to recall these were afternoon
6 sessions, as best as I recall.

7 Q. Was the tour of the facility where you said
8 you saw additional graffiti, was that as part of
9 your interview? Like did you get interviewed and
10 then that happened, or right before? How did it
11 work?

12 A. I remember the interview as a separate
13 event.

14 Q. On a separate day you mean?

15 A. I would have to look at my logbooks.

16 Q. After seeing graffiti when you looked
17 around with the EEOC investigator, did you have any
18 additional conversations with Bob Blount or anybody
19 else on the cleaning crew about removing that
20 graffiti found?

21 A. I don't remember talking to Bob, no.

22 Q. Do you know whether the racial graffiti
23 which Mr. Enagbare and Mr. Willis complained of was
24 ever removed from the site?

1 A. I don't personally know that, no.

2 Q. Did anyone ever tell you that it was
3 removed?

4 A. I can't recall that.

5 Q. Do you know whether or not the cleanup crew
6 ever took photographs of any of the graffiti that
7 they found?

8 A. The cleanup crew?

9 Q. Yes.

10 A. I don't know.

11 Q. You didn't instruct anybody to have them
12 take pictures?

13 A. No.

14 Q. What about writing down any of the content
15 of what they found, do you know whether they did
16 that?

17 A. I don't recall.

18 Q. And you didn't instruct anybody to do so?

19 A. No.

20 Q. Do you have any understanding on the
21 frequency and severity of the graffiti that was
22 found, based on the cleaning crew's activities?

23 A. No, not personally.

24 Q. Or through anybody else?

1 A. No.

2 Q. Did you or anybody else that you know of
3 undertake to try to figure out whose handwriting was
4 in the graffiti of which Mr. Enagbare and Mr. Willis
5 complained?

6 A. No.

7 Q. Was there any discussion at all with
8 respect to the graffiti situation at Mystic as to
9 additional surveillance methods at the site, for
10 example, having cameras installed outside of the
11 bathroom areas to monitor and review or anything
12 like that?

13 A. I had a discussion with ideas similar to
14 that with Bill Rittershaus.

15 Q. Could you tell me a little bit about those
16 discussions.

17 A. The ideas were rejected. The thought of
18 putting cameras out there would create a big problem
19 with the unions. There's the privacy issues they
20 would bring up. It just wouldn't work.

21 Q. That was Bill that thought it wouldn't
22 work?

23 A. Well, we both agreed.

24 Q. Was there ever any discussion with the

1 union about the possibility of putting cameras up to
2 deal with the graffiti situation?

3 A. I had mentioned it to a few stewards during
4 a stewards meeting once and got the reaction that I
5 anticipated.

6 Q. Which was negative?

7 A. Oh, yes.

8 Q. Do you remember any of the stewards you
9 spoke to, their names?

10 A. Let's see, the pipefitters' steward, but I
11 don't recall the name at the moment. He was one of
12 them. There was the boilermakers' steward and the
13 ironworkers' steward.

14 There were three names. I don't remember
15 them at the moment.

16 Q. Did you have any discussion with
17 Rittershaus or anybody else about alternatives to
18 dealing with the graffiti situation, other than just
19 the cleanup crew, that you have not told me about?

20 A. We talked about having guards at every
21 port-o-john, and the idea was just not practical.
22 Whenever someone used the port-o-john, the guard
23 would have to run in immediately. It was very
24 impractical for an idea.

1 Q. Any other ideas?

2 A. That's all I remember.

3 Q. Did you ever get any of the supervisors of
4 the craft workers together to discuss ideas that
5 could work for dealing with graffiti on the site?

6 A. Not specifically ideas. We talked about
7 graffiti at staff meetings. You know, we tried to
8 catch somebody doing it.

9 Q. Did you contact police or any other law
10 enforcement or instruct anybody to do so to deal
11 with the graffiti?

12 A. No.

13 Q. Do you know if anybody was questioned from
14 the different craft worker groups that worked near
15 some of the port-o-johns or bathrooms or anywhere
16 else that graffiti was found to find out if they
17 knew who did it?

18 A. Could you please rephrase that again. I'm
19 not sure I know what you mean.

20 Q. Sure. Do you know if anyone questioned the
21 craft workers who worked near places where graffiti
22 was found to determine if anybody knew who did it?

23 A. No. It was too fluid of an environment.

24 Q. What do you mean by that?

1 A. Craft workers that were here today would be
2 over here tomorrow and then here the next day
3 (indicating). It was very fluid.

4 Q. I assume there was a company that actually
5 provided the port-o-johns to the Mystic site. Is
6 that true?

7 A. Yes.

8 Q. Do you remember what the name of that
9 company was?

10 A. I think it was Handy John. That may not be
11 exactly right, though.

12 Q. Did you have any conversations with anybody
13 at that company about the situation that was
14 occurring?

15 A. Not myself, no.

16 Q. Did anybody else that you know of?

17 A. Bob Blount would have. He got cleaning
18 supplies from them and worked with them to replace
19 some of the worst port-o-johns. That company would
20 take one and replace it. He worked with them on
21 that I know.

22 Q. Do you know if that company had any
23 complaints about the vandalism of their property
24 that was voiced to you or anybody else at that site?

1 A. Not that I'm aware of, no.

2 Q. Was there ever an effort to identify the
3 cost associated with cleaning up the bathrooms and
4 allocating staff to the cleanup crew or materials
5 that were used to clean up the bathrooms at that
6 site?

7 A. Not that I'm aware of, no.

8 Q. With respect to the cleanup crew, your
9 instructions to Bob Blount, did they include any
10 requirement that the cleanup crew go into every
11 bathroom, or were they just going into bathrooms
12 that had been identified to include graffiti? Do
13 you know how that was handled?

14 A. I would have to clarify. I would not
15 instruct Bob Blount. He didn't work for me. I
16 would discuss the issue with Bob.

17 What schedule he used or how he handled the
18 cleanup of the port-o-johns, I do not know that
19 specifically.

20 Q. Did you discuss with Bob how many people
21 you thought were necessary to be part of the cleanup
22 crew?

23 A. No. The company made that decision. It
24 probably would have been Bob Blount. Steve Cantrell

1 may have been involved as his reporting, who he
2 reported to; or Bill Rittershaus.

3 Q. Going back to what you said about meetings
4 with supervisors that occurred, could you tell me,
5 how often were there meetings with supervisors that
6 you participated in while you were at Mystic?

7 A. We had a staff meeting every morning.

8 Q. Every morning?

9 A. Every single morning.

10 Q. Who was present at the staff meetings?

11 A. All the superintendents, myself, Bill
12 Rittershaus, the site managers. Alan Corder, the
13 business manager, was there. The warehouse manager
14 was there. It was generally the heads of the
15 various departments or craft, disciplines that were
16 attending that meeting.

17 Q. Did foremen and general foremen participate
18 in those staff meetings?

19 A. No.

20 Q. Was there a similar daily meeting for the
21 general foremen and foremen of the craft workers?

22 A. The superintendents would hold a briefing.
23 They had a different term for it. It was to discuss
24 the day's work. They may even discuss a safety

1 Q. Was there any discussion between the two of
2 you about how that would have happened?

3 A. He would have called Bob Blount.

4 Q. Did you personally take any steps to
5 determine whether there was additional graffiti
6 after you walked the site with the EEOC?

7 A. I did not.

8 Q. Did you instruct anybody else, other than
9 in this conversation with Bill Rittershaus, to do
10 that?

11 A. I remember having a conversation or
12 bringing it up at one of the staff meetings
13 afterwards, after the EEOC tours or audits and, you
14 know, "Folks, pay attention. If you see it, tell
15 Bob."

16 Q. Did anyone at that meeting say that they
17 had seen anything?

18 A. I don't recall specifically anyone saying
19 that.

20 Q. Was it just one time that you addressed it
21 at a staff meeting?

22 A. No.

23 Q. How many times?

24 A. It would be several times over a period of

1 months.

2 Q. At any time, did anyone who participated in
3 a staff meeting say that they had seen anything or
4 not seen anything?

5 A. I don't remember anybody at a staff meeting
6 bringing up, "Here's a specific example." There
7 were discussions about graffiti in general on
8 construction sites, that it's a difficult problem to
9 manage.

10 Q. Did anyone during these staff meetings
11 raise ideas on how to deal with the graffiti?

12 A. Sandpaper, paint, cleaners.

13 Q. Again, just to clarify, the folks that were
14 part of the cleanup crew were WGI employees?

15 A. Correct, yes.

16 Q. The supervisor of those folks was Bob
17 Blount?

18 A. Correct.

19 Q. Who, if anybody, supervises Bob Blount?

20 A. I recall that Bob reported to Steve
21 Cantrell, but Steve left at some point, and I don't
22 recall who -- he might have had a direct report at
23 some point to Bill, but...

24 Q. Who was Steve Cantrell?

1 A. He ran the civil end of the project for a
2 period of time. He went to the Weymouth job at one
3 point, and I don't remember the dates of that.

4 Q. With respect to the bulletin board that we
5 talked about where postings were posted, was there
6 lighting on that bulletin board for the night crew
7 to see the postings, if you know?

8 A. I don't recall specifically. We had quite
9 a bit of light in that area. There were overhead
10 power poles.

11 It was quite bright at night in there, but
12 I don't remember specifically that there was light
13 in the bulletin board case itself.

14 Q. Do you know who had keys to open the
15 bulletin board, if anyone?

16 A. Bill Junkins.

17 Q. Can I have you pull out Exhibit No. 5,
18 please. Exhibit No. 5 talks about the affirmative
19 action objectives which I pointed out to you before
20 in the fourth paragraph I believe, if I'm not
21 mistaken; is that right?

22 A. I have No. 5 here. Is this it?

23 MS. PALACIOS: Let's go off the record for
24 just a second.

1 (Discussion off the record)

2 Q. Exhibit No. 5, is that the complaint
3 procedure?

4 A. Yes.

5 Q. If you look at the fourth paragraph, second
6 sentence -- and I know I had you look at this
7 before -- the involvement of each supervisor?

8 A. Yes.

9 Q. Can you tell me where the affirmative
10 action objectives are listed, if anywhere.

11 A. I cannot.

12 Q. If you look at the exhibits where the
13 toolbox training and check stuffer are, I believe
14 there's a date of September 16th on both documents.
15 One is actually printed on it in Exhibit 9, and
16 Exhibit 10 actually has the date entered by the
17 person that did the training.

18 A. Right.

19 Q. They both have the same date, correct?

20 A. Yes.

21 Q. I'm just curious, given that date, are you
22 able to tell me with any clarity as to when the
23 other policies that related to the toolbox training
24 and the check stuffer were actually sent out to

1 folks?

2 A. You mean the postings?

3 Q. Yes, the three postings, Exhibits 5, 6 and
4 7.

5 A. This all occurred in a proximate time.

6 Q. Like within a week or so?

7 A. Within a week or so.

8 Q. Did you ever have any conversations with
9 Mr. Cakrane about the graffiti situation at Mystic?

10 A. A few times.

11 Q. What did he have say to you about it?
12 Actually, what did you talk to him about?

13 A. That it was driving me crazy.

14 Q. What did he say?

15 A. "Hang in there."

16 Q. Did he give you any ideas on how to --

17 A. He mentioned, "Have you brought it up to
18 Mike McDaniel?" I said, "Certainly."

19 Q. Did Mike McDaniel have any other ideas,
20 other than cleaning, that he shared with you on how
21 to handle the graffiti problem?

22 A. Well, the cleaning, trying to get word out
23 to people that it was a violation.

24 The toolbox training, I discussed that with

1 him. We were a little confounded on what to do
2 about it, in reality.

3 Q. Did you seek assistance outside the company
4 on how to deal with the graffiti problem?

5 A. No, I did not.

6 Q. Do you know if anybody else did?

7 A. Not to my knowledge.

8 Q. Very quickly, I just want to have this
9 these two documents marked as exhibits. I have some
10 quick questions.

11 (Documents marked as Anderson
12 Exhibits 14-15 for identification)

13 Q. I'm showing you what was marked as Exhibit
14 No. 14. You will see that says September 11th as
15 the date?

16 A. (Examines document) Yes.

17 Q. Can you tell me who Larry Myers is.

18 A. He's a personnel executive in Boise, and
19 may be the individual that Mike reports to.

20 Q. Can you tell me what this is, what the
21 document is?

22 A. It looks like it is a memo from Larry Myers
23 to the Office of the Chairman. That's those four
24 individuals.

1 Q. Are you familiar with this human resources
2 report that goes out it looks like weekly?

3 A. No, I'm not.

4 Q. Do you know whether that actually happens?

5 A. No, I don't.

6 Q. Have you ever seen this document before?

7 A. I seem to recall it, yes, at some point.

8 Q. Do you remember what the context was for
9 your reviewing this document?

10 A. No, I don't.

11 Q. You can put that aside. I'm showing you
12 now what was marked as Exhibit No. 15. This looks
13 like it's a memo from you. Is that true?

14 A. (Examines document) Yes.

15 Q. Do you recall drafting this memo?

16 A. Let me look it over here real quick.

17 (Witness reviews document) Yes, okay.

18 Q. Can you tell me why you put this memo
19 together.

20 A. For the record, for Mike to have in his
21 files.

22 Q. Do you have monthly safety meetings, or you
23 had monthly safety meetings back then?

24 A. It would be maybe four weeks, or six weeks.

1 It would depend a lot on schedules. It was fairly
2 regular, but it was not always fixed every month
3 with the union agents.

4 Q. Who else from WGI participated in this
5 meeting?

6 A. Bill Junkins normally came with me, because
7 it had a safety component primarily.

8 Q. It looks like you gave them a little
9 briefing on what was happening with the graffiti.
10 Did the craft unions or the trade unions have any
11 input on how to handle that situation at all?

12 A. No.

13 Q. Did you ask them if they had any input?

14 A. Yes.

15 Q. You mentioned earlier on in your deposition
16 that you had two friendships that you maintained
17 while you were at Mystic with Mr. Higgins and
18 Mr. Junkins?

19 A. Yes.

20 Q. Did you ever talk to them off work hours or
21 even during work hours about this graffiti problem
22 that was "driving you crazy"?

23 A. Yes.

24 Q. Did they have any thoughts that you found

1 helpful?

2 A. No more new thoughts than the rest of us
3 had addressed it.

4 Q. Did you have any conversations with
5 Mr. Junkins about whether some of the graffiti posed
6 any safety problems?

7 A. No. I don't remember that being a concern.

8 Q. Did he have any concerns that there might
9 be safety problems relevant to some of the graffiti
10 that was found?

11 MR. PATERNITI: Objection. Only if you
12 know.

13 A. I don't recall.

14 Q. Part of what happened during the
15 investigation of this case at the administrative
16 level here at the EEOC, which you may or may not
17 recall, was that the EEOC investigator spoke to a
18 number of employees at WGI.

19 A. Yes.

20 Q. One of those employees was Jim Fay.

21 A. Okay.

22 Q. In the interview that Jim Fay gave with the
23 EEOC investigator, he mentioned that, as I will
24 represent to you, he mentioned that he told

1 "management" about graffiti in the bathrooms or
2 graffiti's on the site rather 10 to 12 times. Were
3 you part of that management that he mentioned it to?
4 In other words, did he come to you with complaints
5 of graffiti at any time?

6 A. He did not.

7 Q. Did you participate in any of those
8 interviews, other than your own obviously, that were
9 done with anyone else who worked at WGI?

10 A. Only my own.

11 Q. I think the last question I really have for
12 today is related to a document I want to now have
13 marked.

14 (Document marked as Anderson
15 Exhibit 16 for identification)

16 Q. It's not so long of a document, but it is
17 eight pages. It is marked as Exhibit 16. This is
18 actually notes that were typed of the interview,
19 your interview during the EEOC on-site.

20 I would just like you to review it. Take
21 your time to look at it and review it. Using my
22 blue pen, if there's anything that you think is
23 inaccurate, feel free to correct it. If a question
24 is wholly inaccurate, cross it out, but I really

1 not sure what they means here.

2 "I do have book on operational guidance for
3 the policy and staff," well, that's going to be the
4 manual.

5 Q. That we discussed earlier?

6 A. Right. "Have you read it?" I have used
7 it. The context here is I read through the whole
8 thing. I don't like the context. I didn't say that
9 to her.

10 "Have you been trained on the policy?"

11 "Yes," three years ago by EEOC professionals.
12 Training was for one day." What I'm saying here in
13 the context of this policy are two separate
14 discussions. I talked about the fact that we had
15 training in Cleveland, employee training, but she's
16 got it as something I was doing, which I don't
17 remember taking that training. I talked about the
18 fact we had training.

19 By the way, I found her incredibly
20 intimidating. I did not care for her at all. I
21 have to tell you that. I'm very upset seeing this.

22 "Tell me about the policy and complaint
23 procedure." "We have it, but I base my
24 investigations on my experience. I used to be a

1 training that Mr. Myers says was going to be done to
2 raise awareness? Do you know whether that happened
3 at Mystic?

4 A. Not that I'm aware of.

5 Q. You didn't participate in any --

6 A. I did not.

7 Q. Is it accurate that you established a
8 two-man crew to continually walk the site and clean
9 up graffiti as it occurred?

10 A. I didn't establish the crew. The company
11 did. There was actually four persons involved.
12 There was an individual assigned to each of the
13 permanent, semi-permanent bathrooms, and then there
14 was a two-person crew that walked the site and
15 cleaned up graffiti as it occurred, like they say
16 here.

17 Q. When you say the company was responsible
18 for establishing the crew, can you give me the names
19 of people that encompasses "the company."

20 A. Bill Rittershaus, Bob Blount. It would
21 have flowed through that chain of command.

22 Q. I'm not sure if I asked you this already,
23 so indulge me if I have. Do you know whether
24 Washington Group provided any training on how to

1 handle discrimination complaints to general foremen
2 and foremen at the Mystic site?

3 A. I'm not aware of any.

4 Q. Based on any understanding that you have of
5 this field, do you know how a general foreman or a
6 foreman at the Mystic site would have dealt with a
7 complaint of discrimination?

8 A. He probably would have told his next
9 superior, whoever that individual reported to.

10 Q. I understand the foremen report to the
11 general foremen. Who is the next line of report for
12 a general foreman?

13 A. It would either be the assistant
14 superintendent if there was such an individual
15 assigned to that, or the superintendent.

16 Q. If you look at the last line of Exhibit 14,
17 "Several people have been terminated for racist
18 conduct," that line.

19 A. Right.

20 Q. Do you know anything about people who have
21 been terminated for racist conduct at the Mystic
22 site?

23 A. Let's see, September 11th, three people.

24 Q. Do you remember who those people were?

1 A. It was the individual that had the run-in
2 with Ozzie Weeks. He was an electrician. I'm
3 drawing a blank on the name. He was terminated. He
4 used the "N" word in an argument with Ozzie. Ozzie
5 worked for another contract, not for us.

6 Wait a minute, let's see if I have it
7 right. (Examines document) Yes, Ozzie worked for
8 Bond Brothers. The harasser worked for us. He was
9 terminated.

10 We had a superintendent that was terminated
11 for making racist comments to subcontractor
12 employees.

13 Q. Do you know who that was?

14 A. John Day. Of course, we have Alan Griffis
15 with Encompass.

16 I think the word "several" here is
17 generally capturing what is going on. That was used
18 in this memo. Those are the ones that I recall,
19 though.

20 Q. Anybody else?

21 A. Not that I can recall. By the time of this
22 memo, I'm trying to put it into that time frame.
23 That's all that's coming to mind at the moment.

24 Q. Do you remember if the person who was

1 terminated regarding the incident with Ozzie Weeks
2 was Dick O'Hare?

3 A. That's it, yes.

4 Q. Finally, just to clarify, the document that
5 we were reviewing that were the notes of the EEOC
6 investigator from the onsite, this was actually
7 included in the discovery responses or production to
8 WGI at some point. I asked you earlier in the day
9 whether you looked at any discovery. You said,
10 "Yes." I'm just curious, had you ever seen this
11 before today?

12 A. No, I had not.

13 MS. PALACIOS: That's all for today. Off
14 the record.

15 (Discussion off the record)

16 (Whereupon the deposition
17 was suspended at 4:30 p.m.)

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1 COMMONWEALTH OF MASSACHUSETTS)

2 SUFFOLK, SS.)

3 I, Ken A. DiFraia, Registered Professional
4 Reporter and Notary Public in and for the
5 Commonwealth of Massachusetts, do hereby certify
6 that there came before me on the 12th day of April,
7 2006, at 10:07 a.m., the person hereinbefore named,
8 who was by me duly sworn to testify to the truth and
9 nothing but the truth of his knowledge touching and
10 concerning the matters in controversy in this cause;
11 that he was thereupon examined upon his oath, and
12 his examination reduced to typewriting under my
13 direction; and that the deposition is a true record
14 of the testimony given by the witness.

15 I further certify that I am neither attorney or
16 counsel for, nor related to or employed by, any
17 attorney or counsel employed by the parties hereto
18 or financially interested in the action.

19 In witness whereof, I have hereunto set my hand
20 and affixed my notarial seal this 26th day of April,
21 2006.

22 Ken A. DiFraia

23 Notary Public

24 My commission expires 4/3/09